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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/642,873   | 08/18/2003  | Gregory P. Tzap      | P0457-1U1           | 3397             |
| 54380  | 7590        | 01/23/2006           | EXAMINER            |                  |
| FLASTER/GREENBERG P.C.<br>1810 CHAPEL AVENUE WEST<br>CHERRY HILL, NJ 08002 |             |                      | TRUONG, DUC         |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 1711                |                  |
| DATE MAILED: 01/23/2006  |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/642,873             | TZAP ET AL.         |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Duc Truong             | 1711                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

Claims 1-2, 14, 23, 26, and 28-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are indefinite in the use of the term “cashew nut shell liquid” in that the chemical structure has not been defined. Further, at least claim 2 defines that the cashew nut shell liquid comprises cardanol and cardol in that the term “comprises” is an open Markush term in that it opens to other fatty acids than those claimed.

Claims 6 and 21 are indefinite in the use of “a modified or unmodified melamine resin is selected from the group consisting of a melamine resin, a melamine formaldehyde resin, a melamine urea formaldehyde, and a urea-formaldehyde resin” or a “methylated formaldehyde resin” in claim 27 in that it does not determine which melamine resin is used to form the product of the claimed formula. In the case if the melamine resin is a urea-formaldehyde resin or methylated formaldehyde resin, then a melamine ring does not exists to form the claimed formula.

Claims 2, 18, 23, 28, 29 and 30 contain the trademark/trade name cardanol and cardol. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade

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name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe the cashew nut shell liquid and, accordingly, the identification/description is indefinite.

Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chem Abstract 119: 161751 or 112: 181468 or 124: 205109 or 115: 258415 or 113: 213128.

The Office action is repeated as in the last office action.

Applicant's arguments are based on the claimed cashew nut shell liquid alone in claim 1, or comprises cardanol and cardanol, as in at least claim 2. The use of the term "comprises" open to other fatty acids such as stearic, behenic acid, in 119: 161751; octadecadienoic acid in 112: 181468; soilbean oil fatty acid in 124: 205109; or hexanedioic acid in 115: 258415 or cardanol in 113: 213128.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Truong whose telephone number is 571-272-1081. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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DUCTRUONG  
PRIMARY EXAMINER